

Remarks

In response to the Office Action mailed May 31, 2005, Applicants elect with traverse Group III (claim 18), without prejudice to pursue the non-elected claims in continuation, divisional, or continuation-in-part applications. Applicants make this election with traverse because the Examiner cannot show that a serious burden would arise if the restriction were not required. For example, in the Office Action mailed November 29, 2004, the Examiner indicated that "claims 1-20 have been examined," yet did not issue a restriction requirement in that earlier Office Action. Applicants therefore submit that the Examiner failed to (and cannot) meet the showing of burden required by MPEP § 803. Pursuant to MPEP § 803, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." MPEP § 803. Here, in the first Office Action the Examiner indicated that the claims were already examined but still chose not to require restriction. The Examiner's actions previous to the current restriction requirement indicate that there is no serious burden that would arise from searching and examining this entire application, notwithstanding that it includes claims to independent or distinct inventions. Applicants therefore make this election with traverse and submit that the Examiner should withdraw the restriction requirement and examine all of claims 1 to 20.



Patent
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